

**CHANGES THAT PROPOSED REGULATION WILL IMPLEMENT**

The following new provisions are included in the proposed regulation:

- ? The specific crimes for which convictions are barriers to employment, volunteer service, approval, registration or licensure have been increased, as mandated by the *Code of Virginia*. (22 VAC 40-190-25)
- ? Conviction of any other felony (other than the specific barrier crimes) in the five years prior to the application date for employment, volunteer service, approval, registration or licensure has been added as a barrier to such, as mandated by the *Code of Virginia*. (22 VAC 40-190-25)
- ? Being the subject of a founded complaint of child abuse or neglect has been added as a prohibition to employment, volunteer service, approval, registration or licensure, as mandated by the *Code of Virginia*, and procedures have been established to implement this provision. (22 VAC 40-190-70, etc.)
- ? Convictions include prior adult convictions and juvenile convictions and adjudications of delinquency based on an offense which would have been at the time of conviction a felony conviction if committed by an adult, as mandated by the *Code of Virginia*. (22 VAC 40-190-40)
- ? A person disqualified from licensure, registration, employment, volunteer service or approval because of a felony conviction in the prior five years that is other than a specific barrier crime may apply for a waiver from the Commissioner of Social Services, as allowed for in the *Code of Virginia*. The procedures for implementing this provision have been set forth in the regulation. (22 VAC 40-190-100, etc.)
- ? For administrative purposes, or if changes are made in the *Code of Virginia* related to criminal record or child abuse/neglect checks, or if there is reason to suspect a conviction or founded disposition, the Commissioner may require another check for any individual required by law to obtain a check. (22 VAC 40-190-40 and 22 VAC 40-190-70)
- ? Religious exempt child day centers have been added to the proposed regulation, as set forth in the *Code of Virginia*. Procedures for criminal record and child abuse/neglect registry checks for religious exempt centers and their sponsoring religious institutions have been established in

the regulation. (22 VAC 40-190-40, etc.)

22 VAC 40-190

CRIMINAL RECORD AND REGISTRY CHECKS

- ? Clarifications and technical changes have been made to increase the clarity of the regulation and to eliminate confusion. (22 VAC 40-190-10, etc.)

22 VAC 40-190

CRIMINAL RECORD AND REGISTRY CHECKS

**AGENCY REASONING FOR REGULATION**

The regulation is essential to comply with ?? 63.1-198 - 63.1-199 of the Code of Virginia. The regulation will set forth procedures to obtain the mandated criminal record and child abuse/neglect registry checks necessary for the protection of children.

22 VAC 40-190

CRIMINAL RECORD AND REGISTRY CHECKS

**STATEMENT OF NEED**

Amendments to the *Code of Virginia* relating to ?? 63.1-198, 63.1-198.1, 63.1-198.2, 63.1-198.4, and 63.1-199, effective on July 1, 1998, require changes in criminal record checks for child welfare agencies and the addition of Child Abuse and Neglect Central Registry checks. An Emergency Regulation is necessary in order to promulgate regulations to be effective within 280 days of July 1, 1998, as required by the 1998 General Assembly. The Emergency Regulation will be entitled Regulation for Criminal Record and Child Abuse/Neglect Registry Checks for Child Welfare Agencies.

22 VAC 40-190

CRIMINAL RECORD AND REGISTRY CHECKS

### **CONSIDERATION OF ALTERNATIVES**

Promulgation of this regulation was required by the 1998 General Assembly. In addition, it is necessary to amend the existing regulation in order to comply with the changes made in the *Code of Virginia*. There were no alternatives available to the Department.

22 VAC 40-190

CRIMINAL RECORD AND REGISTRY CHECKS

**AUTHORITY TO PROMULGATE REGULATION**

The regulation is essential to comply with changes in ?? 63.1-198, 63.1-198.1, 63.1-198.2, 63.1-198.4, and 63.1-199 of the *Code of Virginia* that relate to criminal record and child abuse neglect registry checks. The 1998 General Assembly specified that the State Board of Social Services promulgate regulations for these sections to be effective within 280 days of July 1, 1998.